THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.26552 of 2006

Date: 22-02-2007.

Between :

Mounika Picture Palace, Kadiri, rep. by its Proprietor.

.....Petitioner

And

The Vigilance and Enforcement Wing, Kurnool Unit and another.

.....Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

The petitioner has challenged a notice dated 20th of February 2005, by which he has been asked to pay an Entertainment Tax of Rs.1,20,377/- and a professional tax of Rs.2,500/-. The case of the petitioner is that before this notice, no other notice was given to him nor was any assessment made for the period for which the tax is demanded. The respondents, in their counter-affidavit, have stated that on 04.07.2002, the Vigilance and Enforcement Officers inspected various cinema theatres in the area and one of the theatres to be inspected was the petitioner's theatre and it was found during the inspection that the theatre owners had raised the cost of the tickets unilaterally without any authorization from the

authorities concerned and they were paying the tax on the un-enhanced rate. For enhanced rates, no tax had been paid. The petitioner accepted what was alleged against him and paid the tax of more than Rs.43,000/- on spot and also made a statement to the effect that they had enhanced the value of the tickets. However, he did not pay the tax for the period from 01.07.2001 to 31.03.2002 on the ground that during this period he was not the owner of the theatre and as such was not liable to pay that amount. He also contended that he had purchased the theatre after 31.03.2002 from the erstwhile owner. This objection was considered and the show cause notice shows that the liability was against the theatre owner and as such he was liable to pay the amounts.

Now, the contention raised before us by the learned counsel for petitioner is that the statement made by him to the authorities on 04.07.2002 was a result of coercion and force. He also gave cheques under coercion. This statement was recorded on 04.07.2002 and the cheques were also given on 04.07.2002 and they were encashed by the Vigilance Department. For five years, the petitioner did not complain before any authority that the statement and cheques were obtained from him through coercion by the officers of Vigilance Department. This theory is only propounded after he received fresh notice demanding

payment of additional tax, as such, it cannot be believed that the statement given by him on 04.07.2002 or the cheques issued by him on that date were given by him because the Vigilance Department officials exerted some coercion and forced him to give the statement and cheques.

For these reasons, we do not find merit in the writ petition, which is accordingly dismissed.

BILAL NAZKI, J

22nd February 2007.

NOOTY RAMAMOHANA RAO, J

ajr